IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 6847 OF 2005.

The State of Maharashtra. ... Applicant.

Versus.

Shri Vasant Arjun Vasavala & others ... Respondents.

Shri S.V.More, A.P.P. for the Applicant.

CORAM : ABHAY S.OKA, J.

DATED : 20th December, 2006.

P.C.:

1. Heard the learned A.P.P. for the State. The Respondents have been acquitted for the offence under section 3 of the Essential Commodities Act, 1955 punishable under section 7 of the said Act of 1955.

2. The case of the prosecution is that the 1st Respondent is running a recognised fair price shop in village Khaniv. According to the prosecution, a tempo allegedly carrying rationing goods consisting of 12 small bags of rice was caught. The allegation of the prosecution is that the 1st Respondent had sold the rice meant for distribution in the fair price shop to the 2nd Respondent and the same was being carried in the tempo of the 3rd Respondent.

3. The learned trial Judge has considered the evidence of the prosecution witnesses and in particular the socalled eye witnesses P.W.2 and P.W.3. In the

cross-examination, the said eye witnesses stated that they did not see the rationing shop of the 1st Respondent. They admitted that they have not identified whether the rice is of fair price shop. They admitted that the tempo was standing in front of the house of the informant at a distance of 200 meters from the shop. They admitted that the 1st Respondent was not present at the scene. P.W.4 panch witness stated that the panchanama was already prepared and he signed on the same without the same being read over to him.

4. The trial Court found that the muddemal property was not produced before the Court along with the charge sheet. It was revealed that the muddemal property was sent to the Tahasildar, Dahanu. I find that considering the evidence of the socalled eye witnesses, the view taken by the learned trial Judge is a possible view. No case is made out for grant of leave. Application is rejected.

Judge.